

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

DEWAYNE GHOSTON

PLAINTIFF

V.

CAUSE NO. 3:05-cv-766WS

NISSAN NORTH AMERICA, INC.

DEFENDANT

ORDER

Before the Court is defendants' motion to dismiss, asserting that plaintiff has failed to state a claim upon which relief can be granted. In urging this Rule 12(b)(6) motion, defendant asks this Court to look at the four corners of the complaint. The Court is uncomfortable with resolving this motion without benefit of relevant facts. Since defendant has now filed a summary judgment motion which discusses all the issues, the Court will wait on plaintiff to respond. Plaintiff's response is due by October 20, 2006; defendant will then have until October 25, 2006, to file a rebuttal. Oral argument is set for November 02, 2006, at 4:00 p.m. Defendants' motion for dismissal is DENIED in favor of the Court's expected consideration of the motion for summary judgment.

SO ORDERED, this the 28th day of September, 2006.

s/ HENRY T. WINGATE

CHIEF UNITED STATES DISTRICT JUDGE

Civil Action No. 3:05cv766WS